

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JAN 22 2013

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

LEVI SPRINGER,
Plaintiff,

v.

SGT. ADAMS, *et al.*,
Defendants.

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Civil Action No. 7:12cv00336

MEMORANDUM OPINION

By: Samuel G. Wilson
United States District Judge

This matter is before the court on Springer's "motion for production of defendant" (Docket No. 47) in which he asks the court to direct the Clerk to serve his complaint upon defendant Wise County. For the reasons stated herein, the court denies Springer's motion and *sua sponte* dismisses Springer's claim against Wise County.

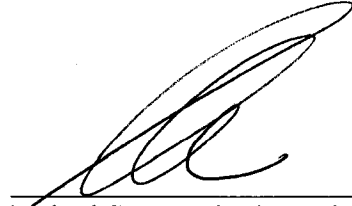
Springer's only allegation against Wise County is that it failed to file a discovery motion in a criminal proceeding to which he was the complainant and alleged victim. Springer argues that because the discovery motion was not filed, the prosecutor never saw the video evidence depicting the alleged criminal activity, and thus, the criminal action was dismissed. Springer states, however, that nothing in the record actually indicates why the criminal matter was dismissed.

To state a claim for relief under §1983, a plaintiff must allege facts indicating that plaintiff has been deprived of rights guaranteed by the Constitution or laws of the United States and that this deprivation resulted from conduct committed by a person acting under color of state law. West v. Atkins, 487 U.S. 42 (1988). The court finds that Springer's allegations against Wise County do not state a claim of constitutional magnitude and, therefore, the court will dismiss Springer's claim against the County and terminate the County as a defendant to this

action. Further, because the County is no longer a defendant to this action, Springer's motion requesting the court to serve his complaint upon the County will be denied as moot.

The Clerk is directed to send a copy of this memorandum opinion and accompanying order to the parties.

ENTER: This 21 day of January, 2013.



United States District Judge